

GOVERNMENT

OF

THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

112th MEETING SESSION (4th OF 2001)

+ + + + +

MONDAY

MARCH 12, 2001

+ + + + +

The Regular Meeting of the District of Columbia
Zoning Commission convened at 1:30 p.m. in the Office of Zoning
Hearing Room at 441 4th Street, Northwest, Washington, D.C.,
Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
HERBERT M. FRANKLIN	Commissioner
JOHN G. PARSONS	Commissioner

COMMISSION STAFF PRESENT:

Alberto P. Bastida, Secretary, ZC
Gerald Forsburg, Office of Zoning

OTHER AGENCY STAFF PRESENT:

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

Andrew Altman, Director, Office of Planning
Maxine Brown-Roberts, Office of Planning
Ellen McCarthy, Deputy Director,
Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.
Mary Nagelhout, Esq.

I-N-D-E-X

Minutes of 2/12/01 and 2/15/01 Meetings	5
Status Report of Office of Planning	9
Status of Buzzard Point, Office of Planning	11
Hearing Action:	
Z.C. Case No. 00-34C, Bryan School	18
Proposed Action:	
Z.C. Case No. 00-02MA, Medstar, Inc.	23
Z.C. Case No. 00-03C, Albemarle Assoc.	37
Final Action:	
Z.C. Case No. 00-20TA	70
Z.C. Case No. 00-24M	72
Reminder Schedule	73
Other Business:	
BZA Attendance	77

P-R-O-C-E-E-D-I-N-G-S

(1:38 p.m.)

CHAIRPERSON MITTEN: Good afternoon, ladies and gentlemen. This is the regular public meeting of the Zoning Commission for Monday, March 12th, 2001.

My name is Carol Mitten. Joining me today are Vice Chairman Anthony Hood, Commissioner Herb Franklin, and Commissioner John Parsons will be joining us shortly.

Mr. Bastida, are there any preliminary matters?

SECRETARY BASTIDA: Madam Chairman the staff has no preliminary matters.

CHAIRPERSON MITTEN: All right. There is one thing that I'd like to move on the agenda, which is under hearing action letter A. We have Zoning Commission Case No. 9603-8901, Buzzard Point, and I think that's more in the -- given where I am in terms of reading the record and perhaps where Mr. Hood is in reading the record, I think that's more in line as a status report today.

So I'd like to move that up to letter B under status report and then Bryan School be the only item under hearing action if everyone is agreeable to that.

VICE CHAIRPERSON HOOD: No objections, Madam Chair.

CHAIRPERSON MITTEN: Very good. So then the first item will be action on the minutes of the February 12th

1 meeting, Mr. Bastida.

2 SECRETARY BASTIDA: Madame Chairman, the staff
3 requests approval of the two minutes for February 12th and
4 February 15th that were submitted to the Commissioners as a
5 draft.

6 VICE CHAIRPERSON HOOD: Madame Chair, on the
7 Monday, February 12th minutes under Roman numeral nine, I think
8 there's an error where it has a motion made by Chairman
9 Franklin. It's not that we don't want him to be the Chairman,
10 but I think that's an error.

11 COMMISSIONER FRANKLIN: Somehow I read that and
12 it seemed very natural.

13 (Laughter.)

14 VICE CHAIRPERSON HOOD: Also, the consistency
15 above that, I think that's Roman numeral eight, where we --
16 normally the person who makes the motion, we usually put their
17 name first. I made the motion, and it has me as third, and I
18 think we just need to be consistent. I think we do it all the
19 way through.

20 CHAIRPERSON MITTEN: Yes.

21 VICE CHAIRPERSON HOOD: Also, on page Roman
22 numeral 16, under other business, it has Anthony Hood to
23 approve, not voting, not present. I think we're missing
24 Commissioner Holman's name in that, in that sequence.

25 CHAIRPERSON MITTEN: Yes.

1 VICE CHAIRPERSON HOOD: That's all I have, Madame
2 Chair.

3 CHAIRPERSON MITTEN: Anyone else?

4 (No response.)

5 CHAIRPERSON MITTEN: I had a few changes as well
6 and the most substantial of which I'll mention and then the
7 rest I'll just hand to staff there because they're more
8 editorial, is going back to where Mr. Hood was under other
9 business.

10 We did have other business that involved the
11 Woodies case, and we deferred our action to a special meeting.

12 So that was also, I believe, under other business.

13 And with that, and with the amendments that Mr.
14 Hood suggested and the ones that I will -- the editorial
15 changes that I'll hand to staff, can I get a motion for
16 approval of the February 12th meeting minutes?

17 COMMISSIONER FRANKLIN: So moved.

18 VICE CHAIRPERSON HOOD: Second.

19 CHAIRPERSON MITTEN: It's been moved and
20 seconded. All those in favor please say aye.

21 (Chorus of ayes.)

22 CHAIRPERSON MITTEN: Any opposed?

23 (No response.)

24 SECRETARY BASTIDA: The staff --

25 CHAIRPERSON MITTEN: Mr. Bastida.

1 SECRETARY BASTIDA: Okay. Excuse me, Madame
2 Chair.

3 The staff would record the vote four to zero.
4 Mr. Franklin moving, and Mr. Hood seconded it. Ms. Mitten and
5 Mr. Parsons voting on the affirmative. Mr. Holman not present,
6 not voting.

7 CHAIRPERSON MITTEN: Thank you.

8 And now for the minutes of the special public
9 meeting for February 15th. Anything there?

10 VICE CHAIRPERSON HOOD: The only change, Madame
11 Chair, I see, February the 15th, while I know they still want
12 me to be chair, I think you were the chair at that February
13 15th meeting. My term expired February the 12th.

14 CHAIRPERSON MITTEN: Yes, thank you.

15 And I believe that on page 2 that this was
16 preliminary action and final action is yet to come. I would
17 ask Mr. Bastida about that.

18 SECRETARY BASTIDA: That is -- you are correct,
19 Madame Chairman.

20 CHAIRPERSON MITTEN: All right. And then
21 someone's going to have to, I believe, on the -- in terms of
22 Zoning Commissioners present, Mr. Holman wasn't present, and I
23 believe it was him voting by proxy in number two on page 2, as
24 opposed to Mr. Hood.

25 VICE CHAIRPERSON HOOD: Madame Chair, I think

1 that was me. I was late that evening.

2 SECRETARY BASTIDA: Yeah.

3 VICE CHAIRPERSON HOOD: I think Mr. Holman was on
4 time. I mean he was here to vote and I voted by proxy.

5 CHAIRPERSON MITTEN: He was, okay. All right,
6 okay.

7 SECRETARY BASTIDA: Yeah.

8 CHAIRPERSON MITTEN: So then he needs to be added
9 to those Commission members present, Mr. Holman.

10 SECRETARY BASTIDA: The motion is for -- was made
11 by Mr. Holman.

12 CHAIRPERSON MITTEN: But under item Roman numeral
13 two, Zoning Commissioner members present, he's not listed.

14 SECRETARY BASTIDA: Okay. You're right. Thank
15 you.

16 CHAIRPERSON MITTEN: All right. So we have that
17 straight now.

18 Can I get a motion to approve the February 15
19 minutes?

20 VICE CHAIRPERSON HOOD: So moved.

21 CHAIRPERSON MITTEN: Second?

22 COMMISSIONER PARSONS: Second.

23 CHAIRPERSON MITTEN: We have a motion and a
24 second. All those in favor please say aye.

25 (Chorus of ayes.)

1 CHAIRPERSON MITTEN: Opposed?

2 (No response.)

3 CHAIRPERSON MITTEN: Mr. Bastida.

4 SECRETARY BASTIDA: Madame Chairman, the staff
5 would record the vote four to zero. Mr. Hood moving and Mr.
6 Parsons seconding. Ms. Mitten and Mr. Franklin voting on the
7 affirmative. Mr. Holman not voting, not being present.

8 CHAIRPERSON MITTEN: Thank you. Now --

9 SECRETARY BASTIDA: Thank you.

10 CHAIRPERSON MITTEN: -- we'll go to the status
11 report from the Office of Planning, and I would ask you.
12 Perhaps we could just ask you a few questions about the monthly
13 status report, and then if you could just slide right into
14 Buzzard Point when -- after we've asked our questions about the
15 monthly status report.

16 I guess I would -- I just want to make one
17 suggestion, which is the Salvation Army site, which has been
18 set down for hearing and is scheduled for hearing, is not on
19 your list there.

20 And has the applicant for 1000 K Street, for the
21 modification for the PUD, has that, in fact, been withdrawn or
22 is that still pending?

23 SECRETARY BASTIDA: You're asking that for an OP
24 or from --

25 CHAIRPERSON MITTEN: From Office of Planning.

1 SECRETARY BASTIDA: Okay. Yeah.

2 CHAIRPERSON MITTEN: This is on page 2 of your
3 status report.

4 DEP. DIR. MCCARTHY: Right, I think that's a
5 better question to ask Mr. Bastida because --

6 CHAIRPERSON MITTEN: Oh, okay. Sorry.

7 DEP. DIR. MCCARTHY: -- I don't know what the
8 official status of that --

9 CHAIRPERSON MITTEN: Sorry.

10 DEP. DIR. MCCARTHY: -- is.

11 CHAIRPERSON MITTEN: Okay. Mr. Bastida.

12 SECRETARY BASTIDA: I am -- I have asked Mr.
13 Glasgow to provide that letter and he's under the impression
14 that it was provided. I cannot find it on the record. I have
15 asked him to submit it for the record to withdraw the case.
16 But it has not been done officially.

17 CHAIRPERSON MITTEN: Okay. Thank you.

18 Any other questions about the monthly status
19 report?

20 (No response.)

21 CHAIRPERSON MITTEN: I guess you could just go
22 into the discussion of the Buzzard Point case then, Ms.
23 McCarthy.

24 DEP. DIR. MCCARTHY: Thank you, Madame Chair,
25 members of the Commission.

1 The report that we sent you for this hearing
2 traces, deals with some of the questions that you asked
3 previously. The first section goes over the development that
4 has occurred since the last -- since the overlay was proposed.

5
6 And then it proceeds to a set of recommendations
7 from the Office of Planning. Excuse me. Let me just summarize
8 them briefly, which is basically that in addition to the zoning
9 as it was originally set down for the Buzzard Point overlay, we
10 add provisions for design review, particularly for M Street.

11 Because of our concern that the office market has
12 become fairly hot on -- in that area, especially in the
13 vicinity of the Navy Yard and along M Street, and since the
14 Office of Planning feels that that is such a critical corridor
15 for that area because of the presence of the Metro stops there
16 and because it's one of the only corridors that really goes the
17 full length, east, west, that that's where we would hope to
18 concentrate the retail and to focus on pedestrian related uses
19 on the ground floor there.

20 So we think it's important to supplement what
21 exists in the way of zoning on that site with additional design
22 review capability.

23 In addition, as you know in the Buzzard Point
24 zoning as it was originally proposed, the squares to be covered
25 by W-2 zoning were measured at a set distance from the

1 waterfront.

2 And we think it would be much easier to
3 administer and make more sense if we simply called out the list
4 of squares that are approximately that distance from the
5 waterfront, but just made it clear which squares the W-2 zoning
6 relates to.

7 And then lastly, there was discussion and it was
8 favorably discussed by the Board -- by the Commission at the
9 time, to institute a mandatory planned unit development process
10 for developments which actually border on the waterfront.

11 We think all three of those would be useful
12 refinements to the text. We met this week with the major
13 property owners in the waterfront area. We had about almost 25
14 people at the meeting, and they felt there were no serious
15 objections on the part of those property owners to moving
16 forward with the zoning as it's presently constituted.

17 But we felt that because there had been a number
18 of developments that had occurred since the hearing, since the
19 overlay was originally set down, and since we do have these
20 proposed refinements, that what we are recommending to the
21 Commission is that it schedule an additional public hearing on
22 this case at which we would be -- previous to which we would
23 come up with specific, very detailed language which we could
24 advertise in the rulemaking, and the Commission could hear
25 further comments from people who would want to weigh in on

1 these issues or any of the issues that were previously
2 discussed in the case before a final vote was taken on adopting
3 the Buzzard Point overlay.

4 Thank you.

5 CHAIRPERSON MITTEN: Do you think that that
6 language would be available for our April meeting so that we
7 could examine the language at the time that we would be
8 considering setting it down? Is that -- is that doable?

9 DEP. DIR. McCARTHY: Yes, I think that's doable.

10 CHAIRPERSON MITTEN: All right. And I think
11 there's been some discussion about the advisability of
12 readvertising the entire case that had been originally proposed
13 and perhaps this would be an addition to that.

14 Are you in agreement with that as a way to
15 proceed to readvertise all the language that was originally
16 proposed?

17 DEP. DIR. McCARTHY: We thought that that -- we
18 felt better about going with the original text after we had met
19 with the property owners and saw so little disagreement, but we
20 still thought considering how much time had elapsed that it
21 made some sense to readvertise it and permit comments back from
22 property owners in case there were -- in case there had been a
23 change in ownership and the new owners wanted to weigh in with
24 comments that they had not had the opportunity to provide
25 before.

1 CHAIRPERSON MITTEN: All right. Any questions?

2 COMMISSIONER FRANKLIN: Madame Chair, I'd just
3 like to strongly endorse the suggestion that we do readvertise,
4 because as you recall when we discussed this last time, I just
5 felt that this had started so long ago that there's a staleness
6 that would naturally accrue.

7 And I'm very happy that the Office of Planning is
8 making that recommendation.

9 CHAIRPERSON MITTEN: Great, thank you.

10 Anything else?

11 COMMISSIONER PARSONS: Motions are necessary,
12 aren't they?

13 CHAIRPERSON MITTEN: I have one more question
14 before we go into that point. And I'm not sure we do need a
15 motion actually.

16 There's mention made on page 4 of the -- let's
17 see -- page 4 of the March 3rd memo, about the NCPC open space
18 and natural feature element, which was recently completed. And
19 then also the NCPC museum and memorials plan.

20 Can copies of those documents be provided
21 Commissioners?

22 DEP. DIR. MCCARTHY: I'm sure they could be.

23 CHAIRPERSON MITTEN: I think that would be
24 helpful just to help us all get on the same page.

25 VICE CHAIRPERSON HOOD: Madame Chair, I believe,

1 if I'm hearing correctly, we're going to be dealing -- dealing
2 with this at our next monthly meeting?

3 CHAIRPERSON MITTEN: Yes.

4 VICE CHAIRPERSON HOOD: Buzzard Point. Thank
5 you.

6 CHAIRPERSON MITTEN: Yes. So there's no further
7 action to be taken today related to Buzzard Point, and this
8 will give us a little bit more time, me in particular -- I'll
9 speak for myself -- to read the record of the previous case.

10 Mr. Altman did --

11 VICE CHAIRPERSON HOOD: You can speak for both of
12 us.

13 CHAIRPERSON MITTEN: Okay. All right. All
14 right. Now moving to hearing action for Zoning Commission Case
15 No. 00-34C --

16 DEP. DIR. MCCARTHY: Oh, I'm sorry. Madame
17 Chair, could I also -- you had asked the Office of Planning,
18 even though you -- the Commission had determined that they
19 wanted to wait for a final decision on the downtown housing
20 amendments until the April meeting, you had asked us to do an
21 update, and because the city has been in the process of trying
22 to refine its housing initiatives, you probably saw something
23 in the Washington Post on Saturday, I believe, about -- or
24 Friday -- about what the city is proposing.

25 And since that's not final, we had been waiting

1 thinking that that might be available, but Mr. McGettigan
2 brought with him some copies today of an interim report which
3 will give you at least something to read and then you don't
4 have to wait for April for the final set of input.

5 We still will need to give you some more final
6 information with regard to the city's proposals for
7 inclusionary zoning with affordable housing, and we're still
8 working on good cause standards for the extension of the
9 housing escrow fund deadline.

10 And our Community Revitalization Division is
11 working on design guidelines for the Mount Vernon triangle area
12 and along Massachusetts Avenue.

13 So those three elements that you had asked for
14 are still in progress, but the current city actions about
15 housing as they stand so far, the information on the housing
16 production trust fund, our analysis of what are the available
17 housing sites, which the Commission had asked for, some
18 comments on treatment of -- DD treatment of R-5-E in commercial
19 zones and whether R-5-E would be entitled to additional
20 density, some suggested formula with regards -- or some
21 information on the origins of the recreation space requirement,
22 and then some suggestions about formula with regard to the
23 recreation space buy-out.

24 We were able to complete those. So that's in
25 this report, and the others will be sent to you before next

1 month's meeting.

2 CHAIRPERSON MITTEN: Very good. That's helpful
3 to have more time to read this detailed material. Thank you.

4 So are ready to segue into the Bryan --

5 DEP. DIR. MCCARTHY: Yes.

6 CHAIRPERSON MITTEN: -- School?

7 DEP. DIR. MCCARTHY: I was going to segue right
8 into the Bryan School.

9 And as you know the Office of Planning submitted
10 a report dated March 2nd, which did recommend -- set down for
11 the Bryan School, set down of a consolidated review of a zoning
12 map amendment and a planned unit development.

13 This project has also been through the Historic
14 Preservation Review Board. And so we were able to confer now
15 that the Historic Preservation is part of the Office of
16 Planning, we were able to coordinate our review with Historic
17 Preservation Review Board, and essentially we are recommending
18 set down for this case.

19 CHAIRPERSON MITTEN: Thank you.

20 Any questions for Ms. McCarthy?

21 VICE CHAIRPERSON HOOD: Ms. McCarthy -- Madame
22 Chair, I have a question for Ms. McCarthy.

23 Ms. McCarthy, when I was reading this submittal I
24 didn't see anything noting that there were any outstanding
25 issues with the surrounding community. But it did state that

1 there was going to be ongoing dialogue.

2 Are they any outstanding issues?

3 DEP. DIR. MCCARTHY: Ms. Brown-Roberts from our
4 staff is -- oh, is she coming around the other way?

5 She is the one who has been working most closely
6 with the community. So I'd really like her to address that
7 directly.

8 MS. BROWN-ROBERTS: I'm Maxine Brown-Roberts from
9 the Office of Planning.

10 Currently most of the issues have been worked out
11 with the community organizations. We still have to get some
12 comments from the ANC. However, the Capitol Hill Restoration
13 Society worked pretty closely with the applicants in the review
14 -- at the Historic Preservation Review Board.

15 And so there were some questions about parking,
16 but those we think can be worked out.

17 VICE CHAIRPERSON HOOD: Okay. Thank you.

18 DEP. DIR. MCCARTHY: And it was endorsed by the
19 Bryan School Neighborhood Association, which is the group of
20 neighbors that is most closely located to the project.

21 CHAIRPERSON MITTEN: I think this definitely
22 warrants set-down. There's a few things that I'd like to see
23 fleshed out more in your report for the hearing.

24 Because this is a theoretical lot development,
25 I'd like to see some more discussion of the issues that arise

1 when that is utilized, and I'm speaking of things like the yard
2 requirements and they're -- for properties that don't front on
3 streets, there becomes a front yard requirement and it also has
4 implications in terms of the calculation of density and so on.

5 The means of ingress, egress should not be
6 included in the base, which I think it has been so far. And
7 the implications of that for the open space that's being
8 proffered.

9 And also I think it might be worthwhile taking
10 the advice of the guidelines as they relate to theoretical lot
11 developments and in addition to the referrals that you've
12 indicated that you plan to make, also referring them to D.C.
13 Public Schools and the Department of Recreation.

14 So if that could be done, I think that would --
15 that would be helpful.

16 MS. BROWN-ROBERTS: That would be fine.

17 CHAIRPERSON MITTEN: Anything else?

18 COMMISSIONER FRANKLIN: Madame Chair, I would
19 just simply add maybe that the Office of Planning together with
20 the applicant can provide a little more information about the
21 parking situation after development, because my very quick
22 review of the materials left me with the impression that there
23 may be a parking deficit.

24 CHAIRPERSON MITTEN: All right.

25 MS. BROWN-ROBERTS: Based on the calculations

1 that have -- on the number of units that they're providing
2 currently, they have -- there's an excess of parking.

3 DEP. DIR. MCCARTHY: Based on the zoning
4 regulations.

5 MS. BROWN-ROBERTS: Based on the zoning
6 regulations.

7 DEP. DIR. MCCARTHY: Right. Were you concerned,
8 Mr. Franklin, about the regulations or about actual demand?

9 COMMISSIONER FRANKLIN: Actual demand.

10 DEP. DIR. MCCARTHY: Okay.

11 MS. BROWN-ROBERTS: Okay.

12 CHAIRPERSON MITTEN: Can I get a motion to set
13 down the Bryan School case for public hearing?

14 COMMISSIONER PARSONS: So moved.

15 COMMISSIONER FRANKLIN: Second.

16 CHAIRPERSON MITTEN: We have a motion and a
17 second to set down the Bryan School case for public hearing.
18 All those in favor please say aye.

19 (Chorus of ayes.)

20 CHAIRPERSON MITTEN: Opposed?

21 (No response.)

22 CHAIRPERSON MITTEN: Mr. Bastida.

23 SECRETARY BASTIDA: Madame Chairman, the staff
24 would ask the vote -- would record the vote four to zero. Mr.
25 Parsons moving, Mr. Franklin seconding. Mr. Hood and Ms.

1 Mitten voting on the affirmative. Thank you. Mr. Holman not
2 present, not voting.

3 CHAIRPERSON MITTEN: No proxy from Mr. Holman?

4 SECRETARY BASTIDA: No, no proxy.

5 CHAIRPERSON MITTEN: All right. Thank you.

6 Now, we'll move to proposed action on the Medstar
7 case, Mr. Bastida.

8 SECRETARY BASTIDA: Yes, Madame Chairman. The
9 staff has provided you all the information that has come after
10 the hearing.

11 In addition, the staff has provided you with a
12 submission that is dated March the 5th, regarding an overlay
13 proposed by the applicant. That information was not received
14 in this office until Thursday, March the 8th.

15 And the staff checked with the Office of
16 Planning, and the Office of Planning had not received that
17 information so the staff provided to the Office of Planning.

18 Thank you, and the staff requests what the
19 Commission wishes to with the case.

20 CHAIRPERSON MITTEN: All right. Well, perhaps
21 we'll just begin by asking whether or not the Office of
22 Planning has had a chance to review the additional material
23 that was provided by the applicant because there's an
24 alternative proposal contained in that material to rather than
25 having a -- the more straightforward map amendment that had

1 been proposed, they're proposing that an overlay district be
2 created, and I don't know if you've had a chance to consider
3 that or if you have any comments on that.

4 DEP. DIR. MCCARTHY: We have had a chance to
5 consider it as a concept. In fact, we had proposed that to the
6 applicant when the applicant's counsel indicated that they were
7 not interested in pursuing the PUD alternative.

8 So we've reviewed that briefly. We did just get
9 this on Friday, so we have not had a chance to go through it in
10 great detail.

11 The overlay as proposed would deal with the
12 Commission's concerns about the fact that what was being
13 indicated by the hospital as their need was less than what they
14 would be entitled to as a matter of right under the zoning that
15 they were requesting.

16 And so it does constitute a density cap that
17 would be consistent with what was being proposed in the master
18 plan. There were some additional issues which the Commission
19 raised about design and others which are not covered by the
20 overlay, and we would -- we would be happy to do a more
21 detailed review of it for the Commission.

22 CHAIRPERSON MITTEN: All right. We'll see where
23 this goes.

24 I guess just to put everything in context, I
25 think we heard an awful lot from the Washington Hospital Center

1 about their operation and we are very sensitive to the
2 importance of that facility to the metropolitan Washington
3 area.

4 And we do want to accommodate their need, while
5 at the same time recognizing that what had been proposed is
6 quite liberal. And at the same time we also want to recognize
7 the fact that the Department of Public Works had recommended
8 certain road improvements be constructed before building
9 permits are issued.

10 And we have also received a draft copy of a
11 memorandum of agreement that would address those public
12 facilities.

13 And the concern remains, I think, about what the
14 best approach is that we should take in order to accomplish
15 what the Hospital Center needs by way of additional zoning
16 density and balance that with the concerns about traffic and
17 the implications of giving the Hospital Center really more
18 density than they need.

19 So with that as background, I'd ask for some
20 comments from the Commissioners.

21 COMMISSIONER FRANKLIN: Madame Chair, I think it
22 would be very, very helpful, at least in my case, to have the
23 Office of Planning give us some analysis of how the overlay
24 mechanism can achieve whatever our discussion today may reveal
25 as to what our goals and objectives are with respect to the

1 proposal.

2 Clearly, I'm sure the Commission is of one mind
3 in giving great importance to the role of the hospital in terms
4 of the quality of life in the metropolitan area. And we want
5 to be as forthcoming as possible in terms of what they need
6 over time.

7 On the other hand, there are certain issues
8 related to traffic, related to the design of the -- certainly
9 the periphery of the -- of the campus that do not lend
10 themselves very readily to just a straightforward rezoning
11 request.

12 And I for one, I was impressed with the master
13 plan, and I would like to see that the master plan really is
14 given the kind of importance by the institution as it goes
15 along.

16 And I regret that we can't have a campus planning
17 kind of approach to this, which lends itself to that kind of
18 treatment.

19 So we're -- at least where I'm coming from, we're
20 not quite clear as to what mechanism to employ to both grant
21 the hospital what it needs in terms of flexibility and
22 increased density, on the one hand, and assure adherence to the
23 master plan and other traffic related improvements, on the
24 other.

25 So I would welcome the Office of Planning

1 addressing the overlay, and perhaps also revisiting the
2 question of whether a PUD or PUD-like approach to this would
3 make sense.

4 Now, PUD as I read it gives us a lot of
5 flexibility in terms of how we might deal with densities, on
6 the one hand, and continuing review of later developments, on
7 the other.

8 And I'm, frankly, disappointed that the applicant
9 chose not to, you know, use that particular -- I thought we
10 opened the door to that and they chose not to walk through it.

11 So whether that ties our hands in terms of dealing with them
12 that way, I don't know.

13 But I would appreciate if the Office of Planning
14 could also sort of give us some insight onto the technical
15 aspects of that.

16 COMMISSIONER PARSONS: Madame Chairman, I -- I'm
17 glad the hospital came forward with something because I'm of a
18 mind to disapprove the application as it was submitted. It's a
19 fine institution. It is, I think, trying to do the right thing
20 to make this a campus at long last. But for us to approve
21 three and a half million square feet of increased density,
22 which is the size of the Pentagon -- I probably don't need to
23 remind you of that -- without anything more than a commitment
24 to help DPW with transportation needs to me is irresponsible.

25 So my preference is a PUD because I like them.

1 And this is what they're for, unlike the applicant who says
2 they were done for residential purposes and so forth. I don't
3 buy that argument.

4 So I know they're very hesitant about it. I
5 think they're misinformed. I think we could do the right thing
6 with a one step, two step PUD. But if this one sheet of paper
7 in the back at Tab F is their effort to come in between that,
8 it doesn't seem like to me it goes far enough with these three
9 conditions, but we'll -- provisions.

10 We'll ask the Office of Planning to look that
11 over, but if that doesn't seem to work I think the -- I just
12 want everybody to know where I'm coming from. It's
13 disapproved.

14 So we'll wait a month from my perspective with a
15 wide open mind.

16 CHAIRPERSON MITTEN: Okay. Mr. Hood.

17 VICE CHAIRPERSON HOOD: Madame Chair, when I came
18 I was ready to vote as is. I'm not in favor of doing a PUD. I
19 think that to have to keep going through the process in this
20 case, in the health service and the way things are going in
21 this city with the closing of possibly D.C. General.

22 I've heard loud and clear at the hearing that it
23 was tight space. Not only did I hear it; I've witnessed some
24 of the tight space in dealing with things, dealing with
25 Washington Hospital Center's Emergency Room.

1 And I think during the hearing I sat here and
2 really thought about what decision, which way I should vote or
3 how I should deal with this. I didn't want to think about it
4 while I was in an ambulance on my way to the hospital.

5 So I think that they're asking for some space. I
6 understand the concern about having some control.

7 But then again I'm not in the posture or the
8 position to say how much space a doctor needs. And I heard
9 from the hearing loud and clear that they need space to be able
10 to give District of Columbia residents and the like service
11 delivery. I am not agreeable to doing a PUD.

12 While my senior members -- I hear loud and clear
13 that they are. But I am not. I think that that's just another
14 layer to go through. I believe that that the overlay is
15 another chance to come back and maybe we can do a general
16 consensus upon the Commission.

17 But I came today ready to vote in favor of this
18 project for the reasons that I stated.

19 CHAIRPERSON MITTEN: Thank you.

20 I think what we're all struggling with is we
21 recognize the fact that the Washington Hospital Center needs to
22 expand, and we want to accommodate that. It's a question of
23 finding the best mechanism to do that.

24 And I think that what's pivotal in this is DPW
25 has called out certain road improvements, not insignificant

1 road improvements, that really need to be addressed up front
2 And which implies that there's an existing problem. This is
3 not a problem that's going to -- that's going to come with the
4 additional development.

5 So it's a questions of how, given that it at
6 least has been traditional that you can't condition a map
7 amendment; It's how to capture those things that are important
8 precedents before this additional development exists.

9 What's the mechanism for capturing that? And I
10 think that's what we're struggling with, and the overlay may be
11 the mechanism. A planned unit development that is not what
12 we're used to seeing, but still meets the requirements of
13 Chapter 24 may be the way to go.

14 And I think I agree that more work needs to be
15 done given that I think the message is going out we want to
16 accommodate the growth. We don't want to give more density
17 than is clearly necessary.

18 And we want to have some controls on the things
19 that are most important like traffic.

20 So I would be in favor of deferring the decision
21 until April with the understanding that Office of Planning
22 would sit down with the applicant and taking into account the
23 concerns that they've heard, try and devise the best mechanism
24 that can -- that can accommodate those concerns. And if that's
25 a PUD then what will that -- what would that PUD look like?

1 And we'll need some advice. Even if they don't,
2 they continue to resist it would be helpful to us to know why
3 that mechanism truly can't work. Is it -- if it -- or can you
4 devise a PUD that would accomplish the things that we want to
5 accomplish?

6 COMMISSIONER FRANKLIN: If I could just add a few
7 words to what is been said, the applicant has made a proposal
8 to us that it's willing to live with the special exception
9 process that would be required under the SP zone for garages
10 and physicians office buildings, which it seems to me are
11 clearly ancillary facilities to any first class hospital.

12 And yet on the other hand, it doesn't want to
13 live with what I would propose to be relatively light
14 restrictions under a PUD, but enough to make sure that the
15 master plan continues to guide development and that certain
16 other amenities that the master plan calls for will ultimately
17 be developed.

18 So I head what Commissioner Hood has said, and I
19 understand where he's coming from, and we all want to be as
20 helpful as possible to a facility that's essential to the well-
21 being of the District of Columbia.

22 But at the same time we want to do it in a way
23 that, you know, will see the public interest is adequately
24 protected in its comprehensive sense.

25 I do not get the impression from what has been

1 proposed to us that we are at the present time frustrating or
2 thwarting any activities that they want to engage in right away
3 for the expansion of the hospital.

4 So I don't think that at the moment time is of
5 the essence. I think we just have this one time chance to
6 structure something that can be very important for the future
7 of a very important facility in the District.

8 We ought to do it right.

9 CHAIRPERSON MITTEN: Yes.

10 VICE CHAIRPERSON HOOD: Madame Chair, I just want
11 to also note that all groups interested, all the community
12 groups and the like have supported this project as it was.

13 Also, the direction, I want to make sure I'm
14 clear; the direction, I don't know. Do we decide today whether
15 it was going to be -- whether we would like to see the
16 applicant come back as a PUD or are we going to wait for the
17 overlay report from the Office of Planning?

18 CHAIRPERSON MITTEN: What I would like to see
19 from the Office of Planning is a full discussion of the
20 alternatives so that we can understand what's available to us
21 to accomplish -- to address the concerns that we've raised, and
22 hopefully in concert with the applicant, that they'll come
23 forward with a joint proposal.

24 But to the extent that the applicant persists in
25 not addressing the fundamental concerns that we have, I'd like

1 to know what alternatives are available.

2 So I don't want -- I would like to see a PUD. I
3 would like to see discussion of a PUD. I'd like to see a
4 discussion of the overlay.

5 COMMISSIONER PARSONS: Good.

6 COMMISSIONER FRANKLIN: And I would like the
7 Office of Planning to consult with the Corporation Counsel as
8 they go along to make sure that from a technical standpoint
9 certain things are doable.

10 CHAIRPERSON MITTEN: Absolutely.

11 VICE CHAIRPERSON HOOD: Again Madam --

12 CHAIRPERSON MITTEN: Okay. Go ahead. I'm sorry.
13 Mr. Hood.

14 VICE CHAIRPERSON HOOD: Thank you. Thank you for
15 recognizing me.

16 I just want to make sure that if we're going to
17 go that route that we're not holding up anything. I guess from
18 what I'm hearing we're not holding up any development or any
19 progress to move forward, because again, that's essential here
20 in this city right now. And with the shortage of what may
21 happen, we want to make sure that the citizens of this city are
22 being served.

23 Now, I understand that everybody's coming from
24 the same route. But I just have a problem with the PUD process
25 for the simple reason that that just puts the applicant in

1 another frame of having to come through another bureaucracy and
2 just having to keep coming back coming back and keep coming
3 back.

4 While I understand we're trying to keep control,
5 but do we want to keep control where it's going to affect the
6 citizens of this city?

7 That's just where I'm coming from.

8 CHAIRPERSON MITTEN: And, Mr. Hood, I think we
9 appreciate your concern about the fact that we don't want to
10 create a burden for the applicant. So it's part of the
11 discussion about a planned unit development. Can we do it?
12 Can it be devised that we do a one time approval that puts some
13 controls in place, but does not require that they revisit us
14 every time they build a new building?

15 That's what we're trying to explore. So I think
16 the Office of Planning will note your concerns in that regard
17 as well, and hopefully all of that can be addressed.

18 A few other things that I would just like to have
19 some discussion on in your supplemental report, which is the
20 applicant has maintained that any type of residential zoning is
21 inappropriate, and based on the comprehensive plan, and really
22 the comprehensive plan just dictated that it be an
23 institutional land use, and many other institutional uses are
24 in residential zones.

25 So also, you know, to the extent that a

1 residential zone of a higher density might be appropriate as
2 opposed to special purpose, I'd like to have at least have you
3 have an open mind about that.

4 And then the other things is just briefly looking
5 at the MOA. The notion behind it is that the road improvements
6 that just for shorthand are items one through four in the DPW
7 report.

8 The idea in the MOA is that they would be funded
9 prior to building permit being issued. The original DPW report
10 asked that those items be constructed prior to a building
11 permit being issued, which is significantly different. So I'd
12 like to have that fleshed out.

13 And we also don't want to lose track of the fact
14 that DPW also recommended that transportation control measures,
15 which they enumerated, would be implemented as well as part of
16 this approval.

17 So it's not just about getting the money for the
18 road improvements. It's more than that. So, you know, these
19 additional conditions, how can we -- how can we capture all of
20 that?

21 So I don't think we need a vote, but I think by
22 consensus we can agree that we will defer this to our next
23 meeting and anticipate a supplemental report from the Office of
24 Planning.

25 Thank you.

1 Now, we will move to proposed action on Zoning
2 Commission Case Number 00-03C, Albemarle Associates.

3 Mr. Bastida.

4 SECRETARY BASTIDA: Madame Chairman, the staff
5 has provided you with all the information that the Commission
6 requested to be provided into the record, and the findings of
7 facts and conclusions of law provided by the applicant and the
8 opposition.

9 And the staff requests a decision on -- or at
10 least an articulation of the Commission's position regarding
11 this case.

12 Thank you.

13 CHAIRPERSON MITTEN: Thank you, Mr. Bastida.

14 I think this case is a very difficult case
15 because there are aspects of a planned unit development that
16 are clearly desirable to have on this property, and yet there
17 are many reasons why by right development seems to be
18 indicated.

19 As some threshold questions that I think we need
20 to answer before we move into some of the detail of the case,
21 I'd like to hear some discussion on whether or not this project
22 achieves the exceptional merit standard that is required to
23 waive the area requirement for this case.

24 And also the notion of whether or not this should
25 be treated as a two phase PUD and whether or not the Bregon's

1 should be treated separately with an open ended -- with the --
2 there would be no time limit on when the phase two would be
3 developed.

4 Any thoughts on those threshold issues?

5 Commissioner Franklin.

6 COMMISSIONER FRANKLIN: Madame Chair, I can
7 address the last issue more readily because to me it's a
8 simpler one, at least in my own mind. And that is I don't -- I
9 don't see any reason for a second phase in this particular
10 instance. I think we're being presented with this proposal
11 because of some unknown lack of meeting of the minds between
12 the Bregons and the applicant.

13 And it seems to me to be, you know, highly
14 irregular to deal with it in this form. So I for one do not
15 approve of a second phase for this.

16 CHAIRPERSON MITTEN: Do you think that the Bregon
17 property should be carved out or that the Bregon property
18 should be given a deadline for redevelopment, given that they
19 don't want that?

20 COMMISSIONER FRANKLIN: My inclination is just to
21 carve it out at this point. But, you know, I can be persuaded.

22 CHAIRPERSON MITTEN: Any thoughts on the phase
23 one, phase two notion while we're -- because I agree it is a
24 simpler issue so let's deal with the simple issues first.

25 COMMISSIONER PARSONS: Well, I find both these

1 conversations -- these questions difficult to deal with until
2 we have dealt with the site plan itself because I have some
3 pretty fixed ideas of where we should go with this case.

4 It could come out that it's exceptional merit
5 because of our decision. It's not now.

6 CHAIRPERSON MITTEN: Yes.

7 COMMISSIONER PARSONS: It certainly is not now in
8 my view. But I think we could bring it to that point.

9 CHAIRPERSON MITTEN: Well, would you like to head
10 us in that direction, Mr. Parsons?

11 COMMISSIONER PARSONS: Well, I --

12 CHAIRPERSON MITTEN: I mean, I agree with you
13 that if we're just taking up the notion of exceptional merit as
14 it stands, it doesn't meet it. But that doesn't mean it can't
15 be made to be exceptional.

16 COMMISSIONER PARSONS: Okay.

17 CHAIRPERSON MITTEN: So I agree with you, it's
18 not a cut and dried issue.

19 COMMISSIONER PARSONS: Well, I would draw your
20 attention to Mr. Bardine's -- I think it's Mr. Bardine's memo.
21 At least it's from the ANC. And on page 21, he has --

22 CHAIRPERSON MITTEN: Could you just help us with
23 a date or --

24 COMMISSIONER PARSONS: Well, it's January 8th,
25 signed on the back. Twenty-six pages. And we really need the

1 assistance of a map --

2 CHAIRPERSON MITTEN: Page 21.

3 COMMISSIONER PARSONS: -- of the development.

4 I'm using the one from the Office of Planning report dated
5 October 12th, a very simple sketch that is at the end of the
6 report. Well, maybe the fifth page from the back.

7 As I understand what Mr. Bardine is saying -- I
8 won't butt it on him. I'll put it on the ANC -- is exactly the
9 kind of thing that I think we were asking them to do.

10 As I read it and I may be in error, but I'll try
11 it. There would be no Bregon involvement in this at all. That
12 is, that single family residential would remain.

13 There would be three townhouses on Albemarle
14 Street and two on Nebraska. That would eliminate the two at
15 the corner on either side of the words "open space."

16 At least that's the way I'm reading this. And
17 there would only be two -- two units to the rear. Of course, I
18 would urge that we delete the two that are adjacent to the Ford
19 Circle Park, leaving two to the -- I don't see a north arrow
20 here, but I think you know which ones I mean.

21 This would leave seven units in total. And I
22 think that's what he's suggesting, and I may have read it too
23 quickly, but that is about where I was at the end of the
24 hearing anyway. So when somebody else wrote it down, I said,
25 "Gee, that's good."

1 So, you know, whether this is acceptable to the
2 applicant is not understood, of course, but it seemed to me
3 that it got to the issue of tree protection. It got to the
4 issue of encroachment on the park. It got to the issue of
5 bringing this density into conformance with the rest of the
6 community.

7 And I believe the architecture is of exceptional
8 quality. So bringing those things together, that's where I
9 would come out very simply on this case.

10 CHAIRPERSON MITTEN: So you think making these
11 accommodations raises it up to the level of exceptional merit?

12 COMMISSIONER PARSONS: I believe because of the
13 architectural quality that is inherent in it and now a site
14 that as a matter of right would not -- would not afford the
15 protection to the tree, would not afford the protection into
16 the open space that surrounds the site. So it gives us the
17 opportunity with a PUD to accomplish those objectives as well.

18
19 CHAIRPERSON MITTEN: Any reaction to Mr. Parsons'
20 suggestion?

21 VICE CHAIRPERSON HOOD: I just need -- Madame
22 Chair, I'd just ask that Mr. Parsons' can clarify which two
23 houses were taken off. Here's my --

24 COMMISSIONER PARSONS: Four are coming out.

25 VICE CHAIRPERSON HOOD: Four.

1 COMMISSIONER PARSONS: On this proposal.

2 VICE CHAIRPERSON HOOD: So we got four coming
3 out.

4 COMMISSIONER PARSONS: One on either side of the
5 words "open space."

6 VICE CHAIRPERSON HOOD: Okay.

7 COMMISSIONER PARSONS: And looking up at the
8 drawing is the two in the right, labeled B and C. B, C.
9 Excuse me C, B.

10 VICE CHAIRPERSON HOOD: C, B.

11 COMMISSIONER PARSONS: Yeah.

12 VICE CHAIRPERSON HOOD: C, B. Okay.

13 COMMISSIONER PARSONS: I'll point to these two.

14 VICE CHAIRPERSON HOOD: To the left. On the
15 left-hand side.

16 COMMISSIONER PARSONS: That's my tree. I drew a
17 tree on here.

18 VICE CHAIRPERSON HOOD: Okay. I noticed yours
19 looked a little different from mine. So we're taking four
20 houses out. That's your --

21 COMMISSIONER PARSONS: Yes, and the Bregon
22 property would remain as single family.

23 VICE CHAIRPERSON HOOD: You know, I'm having
24 problems with the exceptional merit. I got to the point I went
25 to the dictionary. It said praiseworthy and above normal, and

1 maybe I'm just confused about exceptional merit because I still
2 have a problem. Maybe as the discussion goes on I can see what
3 exceptional merit comes in.

4 COMMISSIONER PARSONS: Well, maybe I'm being
5 redundant, but in the scheme that we're talking about here, one
6 third of this site is set aside for open space, would not
7 happen as a matter of rite. No doubt about it. I mean this --
8 this whole corner here then becomes open space. You see?

9 VICE CHAIRPERSON HOOD: Okay.

10 COMMISSIONER PARSONS: All of that. And there --
11 I think you'd agree that the architecture of these buildings,
12 at least is presented to us, was above the norm of the slate
13 roofs and those kinds of detail. We're above the norm.

14 So it's a matter of architectural appearance, and
15 then the open space that we would be setting aside.

16 I would agree with you. The site plan submitted
17 does not get me to exceptional merit. That's why I was having
18 trouble with that question as a threshold.

19 CHAIRPERSON MITTEN: I don't know if you've given
20 any thought to this, Mr. Parsons, but Mr. Bardine actually went
21 even a little bit farther, I think, which I thought was an
22 interesting idea, which is to put a conservation easement on
23 the portion of the property that you've designated as open
24 space. So that in perpetuity it would be protected, not just
25 for the life of this PUD.

1 Did you -- have you given any thought to that?

2 COMMISSIONER PARSONS: No, I haven't. But I see
3 what he's getting at. A PUD is as permanent as the next Zoning
4 Commission meeting, where we set it down for hearing to do
5 something else. I think that's an excellent suggestion. I
6 didn't -- we've never done that before. I'm not sure whether
7 he's asking us to require that. Where's it written?

8 CHAIRPERSON MITTEN: I'm not sure I'm going to be
9 able to point to it in that document. Well, part of it is that
10 -- I don't know if the Park Service -- does the Park Service
11 hold conservation easements?

12 COMMISSIONER PARSONS: Oh, certainly, they could
13 donate it to the Park Service.

14 CHAIRPERSON MITTEN: So it could be donated to
15 the Park Service.

16 COMMISSIONER PARSONS: There's a land trust that
17 could do that.

18 CHAIRPERSON MITTEN: Okay. So I'm sorry I can't
19 point to it in there.

20 COMMISSIONER PARSONS: Okay. I missed that.

21 CHAIRPERSON MITTEN: Okay. Well, I think I'm
22 getting more comfortable. So maybe we should if -- Mr. Hood,
23 are you comfortable using Mr. Parsons' proposal as a point of
24 departure for more discussion on this?

25 VICE CHAIRPERSON HOOD: I'm fine with that, but I

1 guess I'll wait until we go into some of the other issues
2 because I don't know if I'm just SOS or what. But still
3 exceptional merit. I'm still there.

4 CHAIRPERSON MITTEN: Well, I looked up
5 exceptional in the dictionary, too, and my dictionary which is
6 probably not the one we're supposed to use, but unusual,
7 extraordinary, a rare occurrence, superior.

8 And at least, I mean, you get the sense it's not
9 the kind of thing you have to struggle to recognize. It's just
10 -- it just calls out that it is exceptional because you don't
11 have to talk yourself into it because it's so good it just
12 jumps off the page. So --

13 VICE CHAIRPERSON HOOD: Are you speaking of the
14 project or are you just saying the definition?

15 CHAIRPERSON MITTEN: I'm speaking of the notion
16 of exceptional merit.

17 VICE CHAIRPERSON HOOD: Oh, okay.

18 CHAIRPERSON MITTEN: So if there are things that
19 trouble you about --

20 (Laughter.)

21 CHAIRPERSON MITTEN: What did I say?

22 COMMISSIONER PARSONS: You were giving a
23 definition, but it sounded like you felt that way about this
24 project.

25 VICE CHAIRPERSON HOOD: Right, the project. I

1 was wondering.

2 CHAIRPERSON MITTEN: No, no, no. It's not
3 jumping off the page yet. Thanks for telling me what I just
4 said.

5 So if they're --

6 COMMISSIONER PARSONS: You're doing fine.

7 CHAIRPERSON MITTEN: If there are things about it
8 that still trouble you, let's talk about those because I think
9 that we're moving in a good direction and I'd like to get --

10 VICE CHAIRPERSON HOOD: I guess my question is
11 what are we comparing it to? I mean, what is the basis for
12 making this exceptional?

13 And we have projects that come down constantly.
14 I mean what are we comparing it to to make -- to say that, yes,
15 this PUD is exceptional?

16 COMMISSIONER FRANKLIN: Well, you can compare it
17 to buy right development. And as Mr. Parsons said we end up
18 with something far inferior with any development under the
19 zoning as it currently existed.

20 In fact, you know, I suppose the applicant if
21 it's unhappy with what we do could sell the land for either
22 single family home development, which I frankly don't think is
23 going to happen because it does not strike me as a site that is
24 very attractive from a single family home standpoint.

25 Or it could sell it for -- to a school or a

1 church, which is permitted use, and if it went as a matter of
2 right to a school or a church, none -- very few of these if any
3 of these amenities would -- or benefits from an environmental
4 standpoint and otherwise would be provided.

5 So that's the comparison at least I feel we're
6 confronted by.

7 CHAIRPERSON MITTEN: Well, if I could say -- if I
8 could add onto that, which is I think there's -- there's the
9 buy right level of development and then there's the normal PUD
10 level of development that's supposed to be -- supposed to be
11 exceptional in certain areas of amenities. And then this is
12 supposed to be even above what a normal PUD would provide.

13 So it's really a very high standard.

14 Well, I'll just toss out a -- go ahead.

15 VICE CHAIRPERSON HOOD: I'm just wondering is
16 this the type of signal I've heard in a lot of Office of
17 Planning reports. I've heard even some middle about
18 Smartgrove. Is this the type? Because I believe this is going
19 to set for other developments that may happen in or around
20 Metro stations.

21 Is this a signal that we're going to send?

22 That was one of the questions that I kind of
23 tossed and turned with. Is this the signal that we're sending
24 around Metro stations, from a planning standpoint?

25 CHAIRPERSON MITTEN: Well, one of the things that

1 makes -- that I think makes Mr. Parsons' proposal appealing is
2 that the Ward 3 plan requires that development adjacent to
3 landmark parks be low density. By definition R-5-B is moderate
4 density, but by controlling the density within this project,
5 you can still preserve the concept of low density.

6 So in terms of setting a precedent, I mean, we
7 would have calculate the density based on the seven units. But
8 I would -- I wouldn't be satisfied until the density was at or
9 below the buy right density in R-1-B which is 1.2. It's not
10 dictated, but that's what you end up with based on number of
11 stories and lot occupancy.

12 So I feel comfortable with reducing the density
13 and not setting a precedent that is -- that we'll be sorry
14 about.

15 I think -- I think one of the things that we need
16 to think hard about though is the fact that if we do carve the
17 Bregon property out, then we've basically isolated a detached
18 house between a park and a townhouse development.

19 And what is that -- what does that do in terms of
20 either introducing something that will destabilize the
21 neighborhood or that will set a bad precedent in terms of
22 isolating, you know, a certain property.

23 COMMISSIONER FRANKLIN: Madame Chair, I don't
24 think this neighborhood is in danger of being destabilized by
25 any of the proposals before us. My concern was just simply

1 that it seemed to me an unpersuasive case for a Phase 2
2 development, which I guess your response to that, which I
3 hadn't really focused on, was to make it a condition that it be
4 developed within a time certain.

5 But of course that always opens the door to the
6 possibility that it would not be developed.

7 CHAIRPERSON MITTEN: Right.

8 COMMISSIONER FRANKLIN: And we would be ending
9 up, you know, where we would end up if we just simply carved it
10 out to begin with.

11 CHAIRPERSON MITTEN: Well, I'm in favor of
12 carving it out.

13 COMMISSIONER FRANKLIN: Okay.

14 CHAIRPERSON MITTEN: I just wanted it to be clear
15 that there's two possible ways to deal with it.

16 Okay. Well, we have another issue that had been
17 raised about notwithstanding the high quality of materials and
18 design, the notion that thee houses that are basically three
19 and a half stories are inconsistent with the immediately
20 surrounding properties, particularly relative to the historic
21 houses along Grant Road.

22 Are you comfortable with the design from a
23 massing standpoint.

24 COMMISSIONER FRANKLIN: Actually that's one of
25 the things that I think is praiseworthy, to use one of the

1 words in the dictionary definition. I think that the
2 architectural approach that has been taken is one that was
3 obviously intended to be contextual, to refer to the character
4 of the neighborhood.

5 And I think that from that standpoint the
6 proposal is of exceptional merit.

7 CHAIRPERSON MITTEN: Could I just -- could I just
8 get you to explore that just a little bit more so that I can be
9 as satisfied as you are about it?

10 The examples of townhouses and their design
11 wasn't drawn from the immediate neighborhood. And there's
12 guidance in the comprehensive plan that when there's pending
13 historic district application or when there's some kind of
14 historic fabric that the development be responsive to it.

15 And I understand your point about the design
16 being drawn from the neighborhood at large, but I guess I'm
17 somewhat concerned by the more immediate impact of introducing
18 that in an area where that's not the prevalent configuration.

19 COMMISSIONER FRANKLIN: The historic properties
20 are themselves distinctive from the character of the housing in
21 the immediate area. They are really sort of a character unto
22 themselves.

23 I mean you can't look at them and say that is
24 something that typifies this neighborhood. So I don't think
25 that that necessarily should be the hallmark. An effort has

1 been made to have these new developments pick up the character
2 of a lot of the attached housing that exists in the area,
3 particularly in the areas around Warren Street. I think the
4 maps indicate a great deal of attached housing in the area.

5 I should mention that the first house that I ever
6 purchased was on Windham Place. So I'm not unfamiliar with the
7 character of the neighborhood.

8 And I'm sure that the maps, in fact, even showed
9 that house. When we bought the house, it was called Tenley
10 Town. When we sold it, it was called North Cleveland Park.
11 But that area is marked by a lot of attached housing.

12 And I think this -- these townhouses are trying
13 to capture the character of that including the way in which
14 they do not sit on grade as it were.

15 A lot of the housing in the immediate area is a
16 little bit above the street grade.

17 CHAIRPERSON MITTEN: Okay. Thank you.

18 I'm just going to run through some of the other
19 issues that were raised that I think we should spend a little
20 time thinking about, is the -- and I'm sure that this will
21 change to some extent with a fewer number of houses in terms of
22 the way that the storm water management system is designed.

23 But there was an issue that was raised and -- and
24 I don't know -- I don't know that I feel qualified to answer
25 the question but I'll -- I'll at least raise it, which is a

1 discussion of whether or not the excess storm water that would
2 come out of the bioretention system, whether or not that should
3 be directed into the creek or into the culvert?

4 It's being directed as it's designed into a
5 culvert and I think the notion was to recharge the stream
6 there. That was an issue Mr. Bardine had raised.

7 COMMISSIONER FRANKLIN: I seem to remember that.
8 I thought we had other testimony that was in a different
9 direction. In other words, shifting this to the culvert on
10 Nebraska is the proposal.

11 CHAIRPERSON MITTEN: Correct.

12 COMMISSIONER FRANKLIN: By pipe. Allowing sheet
13 runoff or any other kind of runoff into that stream farther up,
14 I was not persuaded by that if that's what you mean.

15 CHAIRPERSON MITTEN: Well, I think the idea --

16 COMMISSIONER FRANKLIN: He was trying to define
17 the recharge area. We were up into the high school and so
18 forth, and was kind of unknown.

19 CHAIRPERSON MITTEN: Right.

20 COMMISSIONER FRANKLIN: And I -- it seems to me
21 it's best to discharge this at that culvert than to try to
22 splay it off or somehow urge it into the stream at a higher
23 level.

24 CHAIRPERSON MITTEN: Well, let me take another
25 stab at explaining what I understand is the issue, which is,

1 and I believe there was a memo from Mr. Cary Cary about this;
2 that what is the most desirable is to maintain the existing
3 flow of water, not sheeting water, but you know, just the way
4 the water makes its way to the stream or to the creek. The
5 optimum thing to do is to maintain that flow in the same
6 direction and quantity as exists.

7 COMMISSIONER FRANKLIN: Right.

8 CHAIRPERSON MITTEN: Okay. So you're going to
9 put some buildings there, and it's going to have to change.
10 But with the storm water -- with any storm water management
11 system, the water from the site is no longer going to make its
12 way into the creek or the stream at all because it's either
13 going to come back to the site; it's going to be held in the
14 bioretention pond or the facility, and then be reabsorbed into
15 the soil on the site; or it will be directed to the culvert, in
16 which case none of the water from subject property, or very
17 little of it, will go to the stream or to the creek, which is
18 unlike the case currently.

19 So I think the fear is that the stream will not
20 be being fed from this site in the same manner or at all as is
21 currently the case.

22 COMMISSIONER FRANKLIN: Well, I don't know how we
23 could -- I know I wasn't persuaded of it at the time. But I
24 had in mind what I proposed to you today here, to dedicate what
25 I think is almost a third of this site to open space, which

1 will certainly help the oak tree and provide that kind of
2 stable runoff into the existing stream.

3 But without a very sophisticated hydrological
4 study, I don't know how you'd answer your question.

5 CHAIRPERSON MITTEN: Well, perhaps it's we need
6 to see how the design of the storm water management facility
7 would change to be certain that it's going to accomplish what
8 you have just suggested, which is that the open space will
9 continue to drain naturally into the stream.

10 Could we just agree that we'll wait and see what
11 the redesign is, like if the applicant chooses to --

12 COMMISSIONER FRANKLIN: Yes, yes.

13 CHAIRPERSON MITTEN: Okay. There was also an
14 issue related to -- there's a proposal in the context of this
15 development to eliminate a number of trees that are in the
16 public space surrounding the property, and there are various
17 measurements that were included in terms of I believe it's
18 called the caliper of the tree.

19 And the trees that are going to be removed are in
20 various -- have various degrees of health, let's just say. And
21 we were being urged and by -- and in addition to that the
22 replacement trees were going to be significantly smaller in
23 terms of the calliper. And the issue was raised (a) whether or
24 not a formal review by the Trees Division should precede a
25 final decision on our part because it was unclear whether or

1 not our approving the landscape plan as it's been proposed
2 would sort of trump the Tree Division review.

3 And then it becomes a question of, well, to the
4 extent that it is appropriate to remove some trees that are
5 healthy, is the replacement that's being offered adequate in
6 terms of size?

7 COMMISSIONER FRANKLIN: Madame Chair, our PUD
8 provision need not trump the Tree Division if we say so.

9 CHAIRPERSON MITTEN: Okay.

10 COMMISSIONER FRANKLIN: In other words --

11 CHAIRPERSON MITTEN: I just want to raise that as
12 a --

13 COMMISSIONER FRANKLIN: Right, I think it's a --
14 I had actually -- was going to address the Tree Division
15 involvement with the great oak. But if we proceed as Mr.
16 Parsons is proposing, maybe they don't have to be involved.

17 But, yes, I think we could provide that none of
18 this tree replacement should take place without the approval of
19 the Tree Division.

20 CHAIRPERSON MITTEN: There was also concern that
21 was raised and I don't know that -- I think maybe a good
22 drawing to look at would be C-7, which is the tree preservation
23 plan, and Mr. Parsons' proposal removes the units, the two
24 units that are closest to it, which would be the western most
25 rear units.

1 But there was still concern being raised about
2 the adequacy of the tree protection plan as it was proposed by
3 the applicant, in terms of the materials that would be put --
4 the wood chips and whether or not there would even -- whether
5 there would be -- well, now there might not be the need to have
6 any kind of heavy equipment there.

7 So that perhaps needs to be revisited, but the
8 notion was that there would be under certain circumstances an
9 opportunity to drive heavy equipment within the 20 foot tree
10 protection area.

11 COMMISSIONER FRANKLIN: You're referring to the
12 great oak?

13 CHAIRPERSON MITTEN: Yes, I am. Yes.

14 COMMISSIONER PARSONS: The point was being made
15 in order to erect those two houses, and, two, in order to
16 create the storm water retention discharge, that they would
17 have to cut through that root zone.

18 CHAIRPERSON MITTEN: Okay.

19 COMMISSIONER PARSONS: And I'm hoping a redesign
20 of all of that would occur and there wouldn't be that problem
21 at all.

22 CHAIRPERSON MITTEN: Okay.

23 VICE CHAIRPERSON HOOD: Madame Chair, what -- I'm
24 trying to remember where the oak was.

25 CHAIRPERSON MITTEN: The oak is right there, and

1 then it kind of --

2 COMMISSIONER FRANKLIN: Mr. Parsons has a lovely
3 redrawing of it on his map. But I think that the Tree Division
4 ought to be consulted with respect to the general protection
5 measures and should approve them with respect to that
6 particular tree, notwithstanding any reduction in nearby
7 development because, you know, heavy equipment can maneuver
8 around even though construction is not taking place.

9 CHAIRPERSON MITTEN: So shall we make a referral
10 then of the tree preservation plan as proposed by the applicant
11 to the Tree Division?

12 COMMISSIONER FRANKLIN: I think that if we go
13 forward with an approval, that the PUD conditions should be
14 that permits are not granted for the construction until the
15 Tree Division has reviewed and approved the tree protection
16 plan, and presumably will monitor it.

17 CHAIRPERSON MITTEN: That's good. Thank you.

18 VICE CHAIRPERSON HOOD: Madame Chair, I just want
19 to go back and ask Mr. Parsons a question.

20 Mr. Parsons, we mentioned the lower part of the
21 drawing where you're taking off -- near the open space, those
22 two houses.

23 COMMISSIONER PARSONS: Yes.

24 VICE CHAIRPERSON HOOD: From your interpretation,
25 what is the significance of moving those two houses? What are

1 we doing?

2 COMMISSIONER PARSONS: Well, this was an area
3 that was identified with some of these mature trees in it.

4 VICE CHAIRPERSON HOOD: Okay.

5 COMMISSIONER PARSONS: As well. So as you come
6 to the corner of these two streets, you'll be able to see
7 through to a patch of open space, if you will, at this corner,
8 park-like in my estimation.

9 VICE CHAIRPERSON HOOD: Okay.

10 COMMISSIONER PARSONS: You'll still be able to
11 see through to the back to the other houses and across the
12 parking lot. I don't mean to feel that it's all --

13 VICE CHAIRPERSON HOOD: Right.

14 COMMISSIONER PARSONS: -- a wooded circumstance.
15 But it's a much more open feeling at the corner.

16 VICE CHAIRPERSON HOOD: Whereas now it would be
17 blocked. You wouldn't be able to see anything?

18 COMMISSIONER PARSONS: Correct. I mean, they
19 abut one another at the corner. It's a very awkward site plan.

20 VICE CHAIRPERSON HOOD: You know, my only
21 concern, Madame Chair, is we're moving in this direction, and I
22 guess it's done all the time, but this is in my view a major
23 change. I don't know whether you -- the applicant, I'm sure is
24 listening, but I don't know whether they have the opportunity
25 to respond, both sides or all parties involved, before we make

1 a decision on the proposed action.

2 I'm just kind of unsure of which direction we're
3 going because I do want to put something on the record, and I
4 missed this during the hearing. I have a problem with
5 applicants when you have a community, and I believe this is
6 correct. No, I know it's correct.

7 When they come in and they start negotiating with
8 you early on, and then as things -- you see progress being
9 made, and then they're not responsive anymore after they get to
10 a point where they want to cut it off, and they're not
11 responsible to working out those agreements in which they've
12 lead a community in which they're coming into do development.

13 I have a problem with them cutting them off and
14 ignoring them. So, you know, I just wanted to put that on the
15 record.

16 COMMISSIONER PARSONS: Well, let me -- we don't
17 have many residential PUDs, Mr. Hood, although that's what
18 they're probably best for, is to take a residential
19 circumstance like this and fix it.

20 You know, Hillendale was one of the biggest we
21 ever did, and so what we are attempting to do today here is
22 respond to the hearing process, craft a project which is half
23 the density that was submitted. We have to -- I don't even
24 know if we ought to take a proposed action.

25 We ought to get the -- open the record again, get

1 the applicant to respond if they will. They may say, "I'm
2 sorry. I can't deal under these circumstances," and withdraw.

3

4 But if they do, then we've opened the record
5 again with a new submission in response to us and there's
6 certainly opportunity to comment. It isn't as though the
7 citizens are now out of the picture and we've taken over.

8 If that will comfort you that's the process I
9 would see.

10 VICE CHAIRPERSON HOOD: That's fine.

11 COMMISSIONER PARSONS: Whether we need another
12 hearing and go -- the future will tell.

13 VICE CHAIRPERSON HOOD: Right. Well, I'm in
14 agreeance (phonetic) with that. That sounds good.

15 CHAIRPERSON MITTEN: Sounds great to me.

16 VICE CHAIRPERSON HOOD: Mr. Parsons, you
17 understand I was just -- I was speaking in terms of what
18 happened previously, and I didn't catch it during the hearing.

19 There was some dialogue that went along between the community
20 and the applicant, and obviously it got cut off and the
21 community was not responding to, and I just had wanted to make
22 sure that the applicant heard that. I know they're in the
23 audience so --

24 COMMISSIONER PARSONS: Okay.

25 CHAIRPERSON MITTEN: Are there any other issues

1 that anyone would like to raise before we, I think, move in the
2 direction that Mr. Parsons had just indicated?

3 (No response.)

4 CHAIRPERSON MITTEN: The only thing that I would
5 like to see if there will be a response from the applicant,
6 which is I would like to see the density calculated as I
7 believe it is required by the zoning ordinance, and I think it
8 was indicated in the Office of Planning report -- that's the
9 only place where it's actually verified -- that the basements,
10 which are four and a half feet out of the ground, were not
11 included in the gross floor area, which is inconsistent with
12 the requirement of the zoning ordinance.

13 So they should be counted if they're more than
14 four feet out of the ground. Just so we have an accurate
15 depiction of the density as what's remaining.

16 And I'd also like to have the lot occupancy and
17 the density calculation eliminate from the calculation the area
18 that's dedicated for ingress/egress, which is consistent with
19 requirements for theoretical lot development.

20 So that when it comes back to us we know exactly
21 what we're looking at. And I think what would be in order now
22 is to have a motion to reopen the record for a response from
23 the applicant, and then followed by the parties in this case
24 and the Office of Planning to the discussion that we've had
25 here today, if we're in general consensus about Mr. Parsons'

1 proposal for seven units.

2 COMMISSIONER PARSONS: So moved.

3 VICE CHAIRPERSON HOOD: Second.

4 CHAIRPERSON MITTEN: We have a motion and a
5 second. Is there any discussion?

6 (No response.)

7 CHAIRPERSON MITTEN: All those in favor please
8 say aye.

9 (Chorus of ayes.)

10 CHAIRPERSON MITTEN: Opposed?

11 (No response.)

12 CHAIRPERSON MITTEN: Mr. Bastida.

13 SECRETARY BASTIDA: Madame Chairman, the staff
14 would record the vote to reopen the record four to zero, Mr.
15 Parsons moving and Mr. Hood seconded. Ms. Mitten and Mr.
16 Franklin voting on the affirmative.

17 The applicant has advised me that they would need
18 four weeks in order to address that. So that means that I will
19 put it on the next -- it's a possibility that it might be ready
20 for the April meeting, but it might not be until the May
21 meeting.

22 CHAIRPERSON MITTEN: Well, I think we need to put
23 some deadlines on this.

24 SECRETARY BASTIDA: Okay.

25 CHAIRPERSON MITTEN: So that -- because the

1 applicant will respond and then we need responses from the
2 parties. So can you give us some dates?

3 SECRETARY BASTIDA: Yes, I could attempt to do
4 that.

5 CHAIRPERSON MITTEN: Without pressuring the
6 applicant. You know, we're not trying to do that.

7 SECRETARY BASTIDA: No, I requested for the
8 applicant what they will consider a reasonable time and they
9 have requested four weeks.

10 CHAIRPERSON MITTEN: Okay.

11 SECRETARY BASTIDA: So I would depart from that
12 premises and based on that is -- can we come back to this?

13 I failed to bring a calendar and I would rather
14 have a calendar in front of me to give you the exact dates.

15 CHAIRPERSON MITTEN: Well, I don't want to have
16 folks have to wait till the end of this meeting --

17 SECRETARY BASTIDA: Okay.

18 CHAIRPERSON MITTEN: -- to find out the dates if
19 they don't intend to stay. So we could move on to the next
20 issue with the understanding that someone's going to go get the
21 calendar now.

22 SECRETARY BASTIDA: Yeah. And then we can do
23 that.

24 COMMISSIONER FRANKLIN: Madame Chair, could we
25 clarify one thing at least in my mind?

1 CHAIRPERSON MITTEN: Yes.

2 COMMISSIONER FRANKLIN: Mr. Parsons' motion, I
3 believe, assumed that the Bregon property would remain in its
4 present form.

5 COMMISSIONER PARSONS: Correct.

6 COMMISSIONER FRANKLIN: Okay. Just so that's
7 clarified for purposes of site plan.

8 CHAIRPERSON MITTEN: Right. The PUD as we now
9 think of it is phase one, which does not include the Bregon
10 property.

11 COMMISSIONER FRANKLIN: Right.

12 CHAIRPERSON MITTEN: Yeah, I think unless anybody
13 has a different notion about that. Yes. Thanks for the
14 clarification.

15 SECRETARY BASTIDA: Madame Chairperson, I have
16 been provided with a calendar so I can address that issue right
17 now.

18 CHAIRPERSON MITTEN: Wonderful. Thank you.

19 SECRETARY BASTIDA: Okay. Four weeks from today
20 would be April the 16th, and then we will give the community --
21 what is your pleasure? You believe in two weeks will be
22 sufficient?

23 Okay. The next -- what is your meeting day in
24 April?

25 It's the 16th. They can -- I am asking them to -

1 - okay, the 16th. The applicant, I mean, the ANC is requesting
2 to have it until the April -- May 21st, because it's their
3 meeting date so they can take a decision, and if we do that
4 then it will be on the June calendar, meeting date of June the
5 11th.

6 So to recapture that, it would be maybe we could
7 do and give the applicant a little more time to do their
8 submission. So the applicant should submit by April 23rd. And
9 at the same time the applicant will submit the matters to all
10 the parties involved. The ANC will submit its report on May
11 25th.

12 CHAIRPERSON MITTEN: I just want to be clear.
13 There's two ANCs involved, and I want to make sure we're not
14 squeezing one of them.

15 SECRETARY BASTIDA: I believe that we're giving -
16 - the May 25th is the end of the calendar -- of the -- that's
17 about over a month for the ANCs.

18 CHAIRPERSON MITTEN: Okay. That should be --
19 okay.

20 SECRETARY BASTIDA: So I have consulted with one.
21 The other I haven't been able to consult with, but I'm hoping
22 that since it's slightly over a month that that will fit within
23 our time frame.

24 CHAIRPERSON MITTEN: All right.

25 SECRETARY BASTIDA: And then we'll decide it on

1 your June meeting of June the 11th.

2 CHAIRPERSON MITTEN: That sounds good. Thank
3 you.

4 SECRETARY BASTIDA: Okay. Thank you, Madame
5 Chair.

6 CHAIRPERSON MITTEN: All right. We'll move to
7 final actions. First is Zoning Commission Case No. 00-20TA.

8 SECRETARY BASTIDA: Madame Chairperson, you have
9 a proposed draft in front of you. The proposed draft is
10 missing the decision of the NCPC. Its staff had received the
11 decision of the NCPC and they have -- they have voted on March
12 1st to approve the project that will not have a negative impact
13 on the federal establishment or on the proposed map,
14 comprehensive plan for the city.

15 And that is the only thing that is missing from
16 your proposed draft order.

17 CHAIRPERSON MITTEN: All right. I had a couple
18 of editorial changes that I'll just include when --

19 SECRETARY BASTIDA: Yeah, when you give it to me
20 on the --

21 CHAIRPERSON MITTEN: Yes.

22 SECRETARY BASTIDA: Okay.

23 CHAIRPERSON MITTEN: Can I get a motion to
24 approve Order Number 938?

25 COMMISSIONER FRANKLIN: So moved.

1 VICE CHAIRPERSON HOOD: Second.

2 CHAIRPERSON MITTEN: We have a motion and a
3 second to approve Zoning Commission Order Number 938. All
4 those in favor say aye.

5 (Chorus of ayes.)

6 CHAIRPERSON MITTEN: Opposed?

7 (No response.)

8 CHAIRPERSON MITTEN: Mr. Bastida.

9 SECRETARY BASTIDA: Yes, the staff would -- will
10 record the vote four to zero, Mr. Franklin moving and Mr. Hood
11 seconded. Ms. Mitten and Mr. Franklin -- I mean, Mr. Parsons
12 voting on the affirmative. Mr. Holman not present, not voting.

13 CHAIRPERSON MITTEN: Thank you.

14 SECRETARY BASTIDA: B, The Zoning Commission Case
15 00-24M. The staff has submitted a proposed draft order on that
16 case, and that proposed staff order is complete, and the staff
17 would request an action by the Commission.

18 CHAIRPERSON MITTEN: I have just one change. I
19 have a couple changes, but the one that I think is substantial
20 that I'll just mention is that under number three on page 1
21 under findings of fact. it says the action was taken on an
22 emergency basis because of the need to act prior to the
23 expiration of the planned unit development.

24 That's not why we did it. The second reason is
25 the reason. So I would recommend eliminating that.

1 SECRETARY BASTIDA: The staff will make such a
2 correction.

3 CHAIRPERSON MITTEN: Can I have a motion to
4 approve Zoning Commission Order 930A as amended?

5 VICE CHAIRPERSON HOOD: So moved.

6 CHAIRPERSON MITTEN: Second. All those in favor
7 please say aye.

8 (Chorus of ayes.)

9 CHAIRPERSON MITTEN: Opposed?

10 (No response.)

11 CHAIRPERSON MITTEN: Mr. Bastida.

12 SECRETARY BASTIDA: Madame Chairman, the staff
13 would record the vote four to zero, Mr. Hood moving it, Ms.
14 Mitten second it. Mr. Franklin and Mr. Parsons voting on the
15 affirmative. Mr. Holman not present, not voting.

16 CHAIRPERSON MITTEN: Thank you.

17 I think the next item on the agenda is the
18 reminder schedule.

19 SECRETARY BASTIDA: That is correct, and that
20 speaks for itself, unless you want to discuss it.

21 CHAIRPERSON MITTEN: No, I just wanted to call
22 everyone's attention to the fact that the date that we had been
23 scheduled to hear the permanent regulations for the EEF's has
24 been changed. I've lost track of when it was scheduled for,
25 but now it's --

1 SECRETARY BASTIDA: March 22nd, I believe.

2 CHAIRPERSON MITTEN: March 22nd, and now it's
3 scheduled for May 7th. In case you put that on your calendar
4 you might want to change it.

5 SECRETARY BASTIDA: Madame Chairman, maybe if I
6 can take a minute of your time, of the Commission's time, is
7 this coming Thursday there is a continuation hearing on
8 American University.

9 CHAIRPERSON MITTEN: Yes.

10 SECRETARY BASTIDA: At seven o'clock.

11 CHAIRPERSON MITTEN: Yes.

12 COMMISSIONER FRANKLIN: Will the transcript of
13 the last hearing be available, Mr. Bastida?

14 SECRETARY BASTIDA: Unfortunately will not.
15 Usually takes about three weeks and to expedite the transcript
16 it will cost about \$1,000.

17 COMMISSIONER FRANKLIN: I guess I'm not worth it.

18

19 SECRETARY BASTIDA: No, I --

20 CHAIRPERSON MITTEN: We think you are, Mr.
21 Franklin.

22 VICE CHAIRPERSON HOOD: Spend the money.

23 COMMISSIONER PARSONS: Use your Visa card.

24 SECRETARY BASTIDA: The staff disagreed with your
25 pronouncement, but we'd be glad to take your charge card.

1 COMMISSIONER FRANKLIN: Okay. If I could just be
2 advised as to the stage of the hearings, I mean, will I be at a
3 disadvantage not having read the transcript of the last
4 hearing?

5 SECRETARY BASTIDA: I think that the staff might
6 be able to provide you a little discussion of the --

7 COMMISSIONER FRANKLIN: Okay.

8 SECRETARY BASTIDA: -- briefing of what basically
9 transpired. And I don't think that you will be at
10 disadvantage.

11 COMMISSIONER FRANKLIN: Okay. Thank you.

12 SECRETARY BASTIDA: But I could be wrong.

13 COMMISSIONER PARSONS: Who would be starting with
14 the Department of Public Works?

15 CHAIRPERSON MITTEN: We're actually starting with
16 Mr. Elliot's cross examination of the Office of Planning, and
17 then we go to the Department of Public Works' report.

18 SECRETARY BASTIDA: Even though this might not
19 the best occasion, the Department of Public Works has contacted
20 me this morning and has requested if you would be kind enough
21 to take their testimony at the beginning of the hearing and
22 being cross examined, since Mr. Laden has another engagement
23 after that and he will be -- he was patiently here for all
24 night last time.

25 CHAIRPERSON MITTEN: Absolutely, yes.

1 SECRETARY BASTIDA: Okay. So I would advise then
2 that that would be the case.

3 CHAIRPERSON MITTEN: That's great, yeah.

4 SECRETARY BASTIDA: Okay. Thank you.

5 CHAIRPERSON MITTEN: And we're happy that he can
6 come.

7 COMMISSIONER PARSONS: So we do that before the
8 cross examination.

9 CHAIRPERSON MITTEN: Yes.

10 COMMISSIONER FRANKLIN: Well, from what I have
11 heard I will not be disadvantaged.

12 (Laughter.)

13 CHAIRPERSON MITTEN: And I believe we're going to
14 defer the discussion about the Sunshine Act until another
15 meeting.

16 Now we need to discuss BZA.

17 COMMISSIONER FRANKLIN: Before we do so, Madame
18 Chair, I'd just like to remind everybody that I will not be
19 present on the 19th of this month, and I will not be present on
20 the 5th of April. And I hope Mr. Holman will be.

21 CHAIRPERSON MITTEN: Of course we'll miss you.

22 COMMISSIONER FRANKLIN: Thank you. I was just
23 fishing for that.

24 SECRETARY BASTIDA: Mr. Franklin, you said you
25 will not be available on the 5th of April?

1 COMMISSIONER FRANKLIN: That's correct. I'm out
2 of the city.

3 SECRETARY BASTIDA: Okay. The staff will miss
4 you, Mr. Chair -- Mr. Franklin.

5 COMMISSIONER FRANKLIN: Thank you. I was fishing
6 for that, too.

7 CHAIRPERSON MITTEN: So, are you ready to talk
8 about the BZA schedule?

9 SECRETARY BASTIDA: Yes, Madame Chairman. Let me
10 get to the exact date. March 13 is all set, even though Mr.
11 Parsons had a request for the afternoon.

12 COMMISSIONER PARSONS: Well, I was talking to Ms.
13 Pruitt, and what we're going to try to do is to accommodate my
14 schedule and since nobody else can do it, is to postpone this
15 tomorrow afternoon until three o'clock.

16 SECRETARY BASTIDA: Okay.

17 COMMISSIONER PARSONS: She's working on that.

18 SECRETARY BASTIDA: Okay. Then you are working
19 with her directly on that matter.

20 COMMISSIONER PARSONS: Yes.

21 SECRETARY BASTIDA: Thank you, Mr. Parsons.

22 For March the 20th, we have Mr. Hood all day.

23 VICE CHAIRPERSON HOOD: Yes, that's correct.

24 SECRETARY BASTIDA: Okay. For March the 27th, we
25 have Mr. Parsons for 66 -- 16672. And we have a continuation

1 from March 27 on 16618. And --

2 CHAIRPERSON MITTEN: So I don't need to come that
3 day?

4 SECRETARY BASTIDA: But you are the continuation,
5 Ms. Mitten.

6 CHAIRPERSON MITTEN: It says continued, applicant
7 and parties requesting continuance to May 22nd.

8 SECRETARY BASTIDA: Yeah, I'm sorry. I stand
9 corrected.

10 CHAIRPERSON MITTEN: Okay.

11 COMMISSIONER PARSONS: So there's only one case
12 that day?

13 CHAIRPERSON MITTEN: Looks like it.

14 SECRETARY BASTIDA: It looks like it.

15 COMMISSIONER PARSONS: Oh. I'll sit the whole
16 day then. I want that to be recorded.

17 (Laughter.)

18 SECRETARY BASTIDA: It I -- if I may, Mr.
19 Parsons, you don't get credit for the whole day. Sorry.

20 COMMISSIONER PARSONS: Come on. I'll sit here.

21 CHAIRPERSON MITTEN: Now, can we be clear on the
22 3rd of April, that that is an 8:30 a.m. public hearing?

23 SECRETARY BASTIDA: That's what I was told but I
24 will -- I will --

25 VICE CHAIRPERSON HOOD: It is. We moved that

1 because I think they had a busy schedule and -- yeah, we moved
2 that one for 8:30 so we can get that one in. It's either that
3 one or this one. And then they had nine. We have two that
4 we're going to deal with at 8:30.

5 CHAIRPERSON MITTEN: All right. And then --

6 SECRETARY BASTIDA: That is Mr. Hood is supposed
7 to be there. I will double check, and I will talk to Mr. Hood
8 about it to make sure.

9 VICE CHAIRPERSON HOOD: Right, those are the two
10 --

11 SECRETARY BASTIDA: But I think that is correct.

12 VICE CHAIRPERSON HOOD: Mr. Bastida, let me just
13 let you know those two cases I will be there and I think Ms.
14 Mitten sits the rest of the day, right?

15 CHAIRPERSON MITTEN: Well, that was a question
16 that I had, which is whose going to take the rest -- I mean I
17 have a case later. So is that what you'd like, is that I
18 would?

19 There's a public meeting at 9:30, and I don't
20 know who sat on that case.

21 VICE CHAIRPERSON HOOD: Well, you're the Chair,
22 Madame Chair, so whatever you --

23 CHAIRPERSON MITTEN: Did anyone sit on this
24 Jerome Lindsey case?

25 Now, it may just be -- okay, fine. Put me --

1 I'll take the rest of that day. Now, moving to the 10th of
2 April.

3 SECRETARY BASTIDA: That is correct.

4 CHAIRPERSON MITTEN: I personally would like
5 either Mr. Franklin or Mr. Parsons to sit on that appeal of
6 this. It relates to a PUD that I think both of you had sat on,
7 and whether or not the Zoning Administrator's decision to let
8 construction go forward for a slightly altered use is
9 consistent with -- so I think it would be very helpful if
10 someone who is on the original case could be there.

11 COMMISSIONER FRANKLIN: I'd be happy to, Madame
12 Chair, because I have signed up for the Burke School, which is
13 the major event of that day.

14 CHAIRPERSON MITTEN: Great.

15 COMMISSIONER FRANKLIN: So I'll just take the
16 whole day.

17 CHAIRPERSON MITTEN: That would be wonderful.
18 Thank you.

19 Which I think leaves us with the 17th that we
20 need to lock up, because our next meeting is the 16th.

21 SECRETARY BASTIDA: That is correct, Madame
22 Chairman.

23 COMMISSIONER PARSONS: Next meeting is the 16th?

24 CHAIRPERSON MITTEN: The next meeting --

25 SECRETARY BASTIDA: That's right.

1 CHAIRPERSON MITTEN: Our next meeting.

2 COMMISSIONER PARSONS: Oh, it's not the 9th?

3 SECRETARY BASTIDA: No, that is the --

4 COMMISSIONER PARSONS: Oh, great.

5 SECRETARY BASTIDA: This is your calendar.

6 COMMISSIONER PARSONS: Oh, no. I thought it was April
7 you were talking about.

8 SECRETARY BASTIDA: It's April 16th, yeah.

9 COMMISSIONER PARSONS: Oh, good.

10 SECRETARY BASTIDA: Yeah, it's your reminder
11 schedule.

12 COMMISSIONER PARSONS: That's because it was
13 Easter Monday?

14 SECRETARY BASTIDA: No, it is -- it's the second
15 day of the Jewish holiday, which is supposed to be a holy day.

16 COMMISSIONER PARSONS: Okay. That's right.

17 SECRETARY BASTIDA: For that Monday and then it's
18 holy week.

19 COMMISSIONER PARSONS: That's right. That was
20 good because I've got to be out of the city that week.

21 SECRETARY BASTIDA: Oh, okay. See how
22 accommodating we are?

23 COMMISSIONER PARSONS: I have to get my package
24 delivered to my home that week.

25 SECRETARY BASTIDA: Okay. We can do that for

1 sure this time.

2 CHAIRPERSON MITTEN: Mr. Hood has said he'll take
3 the 17th all day.

4 SECRETARY BASTIDA: Okay. Mr. Hood?

5 CHAIRPERSON MITTEN: Yeah.

6 SECRETARY BASTIDA: Okay. Then we can, on the
7 16th, then we can decide for the rest of the remaining dates
8 the schedule then. Unless somebody want's to volunteer now.

9 CHAIRPERSON MITTEN: I think the silence speaks
10 for itself.

11 COMMISSIONER FRANKLIN: I just have a feeling the
12 Burke School is not going to resolve on one day.

13 COMMISSIONER PARSONS: I see it's continued to
14 May 15th, or is that a different School? No, it's --

15 COMMISSIONER FRANKLIN: Oh, yes. I wonder if
16 they're -- Mr. Bastida, is that telling me that it's not on on
17 April 10th?

18 SECRETARY BASTIDA: I'll double check it.

19 COMMISSIONER FRANKLIN: Oh, applicant in
20 opposition requests continuance to May 15th. So it may not be
21 on. I didn't see that.

22 SECRETARY BASTIDA: That seems -- that is correct
23 Mr. Franklin.

24 COMMISSIONER PARSONS: Oh, so --

25 SECRETARY BASTIDA: So you will be here for

1 16701, which is the appeal to the Zoning Administrator on the
2 contractual --

3 COMMISSIONER PARSONS: They say that the rest of
4 the day can now be scheduled. I guess they're going to --

5 SECRETARY BASTIDA: Yeah, we will have, since you
6 kindly offered and we value your time so much, we will use it
7 all day long.

8 COMMISSIONER PARSONS: I would have --

9 CHAIRPERSON MITTEN: Well, I think his point was
10 that he was volunteering because he thought he was going to be
11 on Burke, which he's on anyway. So, you know, he'll have to do
12 this and then Burke whenever Burke comes up.

13 SECRETARY BASTIDA: But what I was trying to do
14 is that he would do 1957 E Street and then whatever else comes
15 up since we don't have anybody else to do it.

16 CHAIRPERSON MITTEN: Let's do this, if it seems
17 like it would be -- you know if you find that it's going to be
18 unduly burdensome to do the rest of that day, whatever might
19 come up, I mean, it means a lot to me that you would be on that
20 first case.

21 COMMISSIONER PARSONS: Yes.

22 CHAIRPERSON MITTEN: So we'll accommodate the
23 rest of the day for you.

24 COMMISSIONER PARSONS: Okay.

25 CHAIRPERSON MITTEN: If that -- you know,

1 depending on what gets scheduled. Is that fair?

2 COMMISSIONER PARSONS: Yeah, thank you. I
3 appreciate that because that will be the time of our
4 appropriations hearings and that's always a difficult time.

5 CHAIRPERSON MITTEN: Anything else, Mr. Bastida?

6 SECRETARY BASTIDA: Yes. The remaining other
7 agenda is self-explanatory, and I don't think that I need to go
8 through it.

9 CHAIRPERSON MITTEN: One request that I would
10 like to make is that I believe at our next meeting, we'll take
11 final action on the Woodies proposal, and you know, if you
12 remember that was a very complicated set of conditions and so
13 on that we were trying to blend together.

14 So if we could have that draft order earlier as
15 opposed to in our packet for the next meeting, that would give
16 us more time to prepare.

17 SECRETARY BASTIDA: As a matter of fact, I was
18 just working on that today. And I requested several other
19 things from the applicant, so I think we're in tandem on that.

20 CHAIRPERSON MITTEN: Terrific. Thank you.

21 SECRETARY BASTIDA: Okay.

22 CHAIRPERSON MITTEN: And if there's no other
23 business?

24 SECRETARY BASTIDA: There is not any other
25 business, Madame Chairman.

1 CHAIRPERSON MITTEN: This public meeting is
2 adjourned.

3 SECRETARY BASTIDA: Thank you, Madame Chairman.

4 (Whereupon, at 3:13 p.m., the public meeting was
5 concluded.)

6
7
8
9
10
11
12
13
14
15
16